

Liyah K. Brown

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633 Indiana Avenue, NW
Washington, DC 20004

Tel (202) 628-1200
(800) 341-2582

TTY (202) 824-2531

Fax (202) 824-2784

www.pdsdc.org

April 24, 2013

The Honorable Lynn Leibovitz
500 Indiana Avenue NW
Washington DC 20001

Re: *United States v. Irvin Johnson*
2011 CF1 17540

Dear Judge Leibovitz,

Our client Irvin Johnson will come before this Court for sentencing tomorrow, April 25, 2013. At that time, we will ask Your Honor to impose concurrent sentences at the bottom of the guidelines so that this young man might return to the community many years from now. Concurrent sentences at the bottom of the guidelines would incarcerate Mr. Johnson for no less than twenty-six years, even with time off for good behavior. In contrast, consecutive sentences would effectively condemn Mr. Johnson to die in prison, given the average life expectancy for African-American males.

This is a case where even the minimum sentences recommended by the guidelines would punish Mr. Johnson severely. Two-and-a-half decades in prison are, by any human measure, long and harsh punishment. Such a sentence would force Mr. Johnson to spend the prime years of his life, enduring the grinding, drudgery of prison routines while contemplating his life experiences and lost opportunities. Those twenty-six years would feel – literally – like a lifetime to someone such as Mr. Johnson, who is only twenty-six years-old. Were he to receive the minimum sentence, Mr. Johnson's son, who was born after his arrest in this case, would be the same age Mr. Johnson is today before Mr. Johnson would be able to spend substantial time with him. The minimum sentence also would incapacitate Mr. Johnson long beyond the ages that men, statistically speaking, are most prone to violence. By the time Mr. Johnson was released, he would be in his fifties, and in all likelihood, wiser. No societal interest is furthered by keeping an elderly Mr. Johnson in prison, as the government proposes, and it is too soon to give up on him forever.

Still only a young adult, Mr. Johnson is not far removed from an upbringing that offered him little stability and support. The Presentence Report hints at the turmoil that Mr. Johnson endured, but it barely scratches the surface. This omission is no fault of the report's author. Mr. Johnson does not readily open up. Life has taught him to bury emotions that might be seen as weak. He is too guarded to show pain and too proud to seek pity. As a result,

Mr. Johnson did not share even with counsel the painful details of his life. However, evaluations conducted when Mr. Johnson was a teenager consistently describe his family dynamics as tumultuous and traumatizing. According to these records, Mr. Johnson's parents only lasting relationship was a hostile one, and, intentionally or not, each repeatedly tried to turn Mr. Johnson against the other. His relationship with his father was volatile and at times physically abusive. His mother spent time incarcerated and at times was unable to provide a home for Irvin. By one tally, Mr. Johnson bounced between his parents' homes nine times before he turned eleven. According to a psychologist, it was no coincidence that Mr. Johnson committed his first juvenile offense at a time when he was virtually homeless and lacking a safe, welcoming family home. The Child Guidance Clinic of Superior Court diagnosed him with depressive disorder and found that, although Mr. Johnson performed well on tests involving inherent knowledge and non-academic skills, his emotional pain clouded his thinking, resulting in borderline intellectual functioning. While these circumstances denied Mr. Johnson the opportunity to achieve the full potential of his talents, there remains in him warmth, intelligence, and the potential for growth. He deserves a chance to achieve that potential after spending the next few decades in prison.

Concurrent sentences at the bottom of the guidelines would keep Mr. Johnson behind the walls of a penitentiary for the better part of the next three decades. He would turn fifty-two years old before he emerged. Because the aging process is one of the most effective answers to recidivism, it is too soon to throw away the key on such a young man. It is safe to say that, at fifty-two, Mr. Johnson will not be the same person he is today. Given these circumstances, we ask the Court to allow Mr. Johnson a chance at life, even if it is years from now when he is middle-aged and nearing the final quarter of his life.

Respectfully,



Liyah Brown

Maro Robbins

Counsels for Irvin Johnson

Public Defender Service

For the District of Columbia

(202) 824-2424

LBrown@pdsdc.org

cc: AUSA Erin Lyons
AUSA Glenn Kirschner